

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES of the CHICAGO REGIONAL)
COUNCIL OF CARPENTERS PENSION)
FUND, et al.)
Plaintiffs,) Case No. 08 C 1311
v.) Judge Hart
R & W CLARK CONSTRUCTION, INC.)
a dissolved corporation and RICK CLARK)
individually and d/b/a R & W CLARK)
CONSTRUCTION, INC.)
Defendants.)

MOTION FOR DEFAULT JUDGMENT

Plaintiffs, by its attorney, Daniel P. McAnally, move this Honorable Court to enter Judgment by Default according to Fed. R. Civ. P. 55 for Defendants' failure to appear, answer or otherwise plead. Further, in support of this Motion the Plaintiffs state:

1. Plaintiffs filed their complaint on March 4, 2008 and the summons and complaint was served on Rick Clark, registered agent, on March 16, 2008 and on Rick Clark individually via Colleen Clark, abode service on March 22, 2008 via the Process Server. **(Exhibit A, affidavits of service)**

2. The Defendants have failed to appear, answer or otherwise plead within the time allowed by the Fed. R. Civ. P.

3. At all times relevant to this action, the Defendants have been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreement, the Defendants are required to submit monthly reports to the Trust Funds which list the number of hours worked by the Defendants' employees and to pay the ERISA contributions based on those hours.

4. The Defendants submitted the monthly contribution reports but failed to submit the ERISA contributions shown to be owed in the amount of \$7,972.28 for the months of October 2007 through December 2007. The Defendants also failed to remit the union dues it withheld from the employees' wages. The amount of dues withheld is \$358.04 for the period November 2007 through December 2007. (**Exhibit B, affidavit of James Rosemeyer**)

5. The Defendants owe interest on the unpaid ERISA contributions in the amount of \$89.39 pursuant to the Trust Agreements and 29 U.S.C. §1132(g)(2)(B). (**Exhibit B**)

6. The Defendants owe liquidated damages on the unpaid ERISA contributions in the amount of \$3,533.83 for the period July 2006 through December 2007 pursuant to the Collective Bargaining Agreements, the Trust Agreements and 29 U.S.C. §1132(g)(2)(C)(ii). (**Exhibit B**)

7. The Defendants owe the sum of \$1,680 for necessary and reasonable attorney fees and costs of \$460.00 which are collectible under the terms of the Collective Bargaining Agreement, the Trust Agreements and 29 U.S.C. §1132(g)(2)(D). (**Exhibit C, affidavit of Daniel P. McAnally**)

WHEREFORE, Plaintiffs pray that their motion for judgment by default be granted in the amount of \$14,093.90.

Respectively submitted,

s/ DANIEL P. McANALLY
Attorney for Plaintiffs

Whitfield & McGann
111 E. Wacker Drive
Suite 2600
Chicago, IL 60601
312/251-9700